

UNITED STATES ARMY COURT OF CRIMINAL APPEALS

Before
COOK, CAMPANELLA, and HAIGHT
Appellate Military Judges

UNITED STATES, Appellee
v.
Sergeant LONZELL J. THREATS
United States Army, Appellant

ARMY 20110187

Headquarters, 101st Airborne Division (Air Assault) and Fort Campbell
Timothy Grammel, Military Judge
Lieutenant Colonel Joseph P. Morse, Staff Judge Advocate

For Appellant: Major Vincent T. Shuler, JA; Captain Ian M. Guy, JA (on reply brief); Colonel Patricia A. Ham, JA; Lieutenant Colonel Jonathan F. Potter, JA; Captain Ian M. Guy, JA (on brief).

For Appellee: Colonel John P. Carrell, JA; Lieutenant Colonel James L. Varley, JA; Major Catherine L. Brantley, JA; Captain Jessica J. Morales, JA (on brief).

17 October 2013

SUMMARY DISPOSITION ON RECONSIDERATION

Per Curiam:

A military judge sitting as a general court-martial convicted appellant, contrary to his pleas, of rape, robbery, forcible sodomy, aggravated assault, assault consummated by a battery, and kidnapping, in violation of Articles 120, 122, 125, 128, and 134, Uniform Code of Military Justice, 10 U.S.C. §§ 920, 922, 925, 928, 934 (2006) [hereinafter UCMJ]. The convening authority approved the adjudged sentence of a dishonorable discharge, confinement for fifty years, forfeiture of all pay and allowances, and reduction to the grade of E-1. The convening authority awarded appellant 175 days of confinement credit.

On 4 September 2013, we issued an opinion in this case wherein we set aside Charge VI and its Specification and affirmed the remaining findings of guilty. We then reassessed the sentence in accordance with the principles of *United States v. Sales*, 22 M.J. 305 (C.M.A. 1986) and *United States v. Moffeit*, 63 M.J. 40 (C.A.A.F. 2006), to include the factors identified by Judge Baker in his concurring opinion,

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and affirmed the approved sentence. *See United States v. Threats*, ARMY 20110187, 2013 WL 4875669 (Army Ct. Crim. App. 4 Sept. 2013) (summ. disp.),

On 3 October 2013, appellant asked this court to reconsider our opinion issued on 4 September 2013 based on additional matters submitted by appellant pursuant to *United States v. Grostefon*, 12 M.J. 431 (C.M.A. 1982). Appellant's request for reconsideration is granted and we have now considered appellant's additional *Grostefon* matters in our reconsideration of this case. We find these matters to be without merit.

Therefore, in consonance with our original opinion in this case, we again set aside Charge VI and its Specification and AFFIRM the remaining findings of guilty. Reassessing the sentence on the basis of the original error noted, the entire record, and in accordance with the principles of *Sales* and *Moffeit*, to include the factors identified by Judge Baker in his concurring opinion in *Moffeit*, the court AFFIRMS the approved sentence.



FOR THE COURT:

A handwritten signature in black ink that reads "Anthony O. Pottinger".

ANTHONY O. POTTINGER
Chief Deputy Clerk of Court